BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **TERRI LOUISE LAWLESS** **a.k.a. TERRI LOUISE NICHOLS** 2829 S. Labelle St Mesa, AZ 85212 Registered Nurse License No. **530385** Respondent	Case No. 2011-672

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **June 14, 2011.**

IT IS SO ORDERED **June 14, 2011.**

Jeannie K. Graves

President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **TERRI LOUISE LAWLESS,** **a.k.a. TERRI LOUISE NICHOLS** 2829 S. Labelle St. Mesa, AZ 85212 Registered Nurse License No. 530385 Respondent.	Case No. 2011-672 **STIPULATED SURRENDER OF LICENSE AND ORDER**

In the interest of a prompt and speedy resolution of this matter, consistent with the public interest and the responsibility of the Board of Registered Nursing of the Department of Consumer Affairs the parties hereby agree to the following Stipulated Surrender of License and Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of Registered Nursing. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Susan Melton Wilson, Deputy Attorney General.

2. Terri Louise Lawless, a.k.a. Terri Louise Nichols (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about March 3, 1997, the Board of Registered Nursing issued Registered Nurse License No. 530385 to Terri Louise Lawless, aka Terri Louise Nichols (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-672 and will expire on November 30, 2012, unless renewed.

JURISDICTION

4. Accusation No. 2011-672 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 1, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2011-672 is attached as **Exhibit A** and incorporated by this reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2011-672. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2011-672, agrees that cause exists for discipline and hereby surrenders her Registered Nurse License No. 530385 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Registered Nurse License without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 530385, issued to Respondent Terri Louise Lawless, a.k.a. Terri Louise Nichols, is surrendered and accepted by the Board of Registered Nursing.

14. The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

15. Respondent shall lose all rights and privileges as a Registered Nurse in California as of the effective date of the Board's Decision and Order.

16. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

17. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2011-672 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

18. If and when Respondent's license is reinstated, she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of Eighteen Thousand, One Hundred and Eighty Nine Dollars ($18,189.00). Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

19. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 2011-672 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

20. Respondent shall not apply for licensure or petition for reinstatement for two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 3-10-11

Terri Louise Lawless

TERRI LOUISE LAWLESS,
a.k.a. TERRI LOUISE NICHOLS
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 4-4-11

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

SUSAN MELTON WILSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2011-672

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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
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In the Matter of the Accusation Against: **TERRI LOUISE LAWLESS,** **a.k.a. TERRI LOUISE NICHOLS** 2829 S. Labelle St. Mesa, AZ 85212 Registered Nurse License No. 530385 Respondent.	Case No 2011- 672 **ACCUSATION**

Complainant alleges:

PARTIES

1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about March 3, 1997, the Board of Registered Nursing issued Registered Nurse License Number 530385 to Terri Louise Lawless, a.k.a. Terri Louise Nichols (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

. . .

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

. . .

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

"(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

"(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

8. Section 2770.11 of the Code provides:

(a) Each registered nurse who requests participation in a diversion program shall agree to cooperate with the rehabilitation program designed by the committee and approved by the program manager. Any failure to comply with the provisions of a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license

number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.

(b) If the program manager determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the program manager shall report the name and license number, along with a copy of all diversion records for that registered nurse, to the board' s enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding."

9. Health and Safety Code Section 11170 provides:

"No person shall prescribe, administer, or furnish a controlled substance for himself."

10. Health and Safety Code Section 11171 provides:

"No person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by this division."

11. Health and Safety Code Section 11173 provides:

"(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

(b) No person shall make a false statement in any prescription, order, report, or record, required by this division.

(c) No person shall, for the purpose of obtaining controlled substances, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, registered nurse, physician's assistant, or other authorized person.

(d) No person shall affix any false or forged label to a package or receptacle containing controlled substances."

12. Health and Safety Code Section 11350 provides:

"(a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or

specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

(b) Except as otherwise provided in this division, every person who possesses any controlled substance specified in subdivision (e) of Section 11054 shall be punished by imprisonment in the county jail for not more than one year or in the state prison.

(c) Except as otherwise provided in this division, whenever a person who possesses any of the controlled substances specified in subdivision (a) or (b), the judge may, in addition to any punishment provided for pursuant to subdivision (a) or (b), assess against that person a fine not to exceed seventy dollars ($70) with proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

(d) Except in unusual cases in which it would not serve the interest of justice to do so, whenever a court grants probation pursuant to a felony conviction under this section, in addition to any other conditions of probation which may be imposed, the following conditions of probation shall be ordered:

(1) For a first offense under this section, a fine of at least one thousand dollars ($1,000) or community service.

(2) For a second or subsequent offense under this section, a fine of at least two thousand dollars ($2,000) or community service.

(3) If a defendant does not have the ability to pay the minimum fines specified in paragraphs (1) and (2), community service shall be ordered in lieu of the fine."

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

14. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

15. California Code of Regulations, title 16, section 1443, states: "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

DEFINITIONS

16. **Vicodin** – is a Schedule III controlled substance pursuant to Health and Safety Code Section 11056(e)(5) and is a dangerous drug within the meaning of Business and Professions Code section 4211, subdivision (a). Vicodin is a brand name for the narcotic hydrocodone bitartrate or dihydrocodeinone combined with the non-narcotic acetaminophen. It is used for the relief of severe pain.

17. **Oxycodone**— is a Scheduled II controlled substance pursuant to Health and Safety Code Section 11055 (b)(1)(N) and is a dangerous drug within the meaning of Business and Professions Code section 4211, subdivision (a). Oxycodone is a narcotic analgesic and used for the relief of severe pain.

18. **Hydrocodone** —is a Scheduled II controlled substance pursuant to Health and Safety Code Section 11055 (b)(1)(J) and is a dangerous drug within the meaning of Business and Professions Code section 4211, subdivision (a). Hydrocodone is a narcotic analgesic and used for the relief of severe pain.

19. **Lortab** - is a Schedule II controlled substance pursuant to Health and Safety Code Section 11055(b)(1)(J) and is a dangerous drug within the meaning of Business and Professions Code section 4211, subdivision (a). Lortab is a brand name for the narcotic hydrocodone

bitartrate or dihydrocodeinone combined with the non-narcotic acetaminophen. It is used for the relief of severe pain.

20. **Pyxis System** -- The Pyxis System is a computerized automated medication dispensing system, which operates similarly to an Automated Teller Machine (ATM) at a bank. The Pyxis medication dispensing machines are serviced by the facility's pharmacy. Medications are placed in the Pyxis machines, which are usually stationed throughout the hospital. These medications can only be accessed, or withdrawn by an authorized staff person using their own unique personalized access code. Each medical professional at the hospital is assigned an account number and a "one time only" access code number. The access code number allows the individual to access the Pyxis System only one time. Upon making this initial access, the Pyxis System prompts the individual to enter his or her own unique access number or PIN code. The Pyxis System will not permit the use of a PIN code that has been used by any former employee, or is being used by any other current employee. After entering their own unique PIN code and each time the Pyxis System is accessed using that PIN code, the person making access is identified and a database record of the transaction is made; which is similar to the ATM withdrawal of funds from a bank account. The Pyxis System specifically records the following:

1) The identities of medical personnel, who have accessed the identified medications.

2) The identities of the patients that the medications were allegedly withdrawn on behalf of and administered to.

3) The date/time the medications were withdrawn by the identified employee.

The Pyxis System in response to the employee's drug withdrawals then updates the hospital's pharmacy inventory for each particular medication withdrawn. The Pyxis System records the time and date of access, and is able to provide a record of the drugs being accessed by the employee via the patient's name, the patient's ID number; the identity of the medical facility's employee making access; the name and quantity of the drug accessed; and location of the particular Pyxis unit accessed.

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CAUSES FOR DISCIPLINE

FIRST CAUSE FOR DISCIPLINE
UC IRVINE MEDICAL CENTER

(Obtaining Controlled Substances by Fraud, Deceit, Misrepresentation or Subterfuge)

21. Respondent is subject to disciplinary action under Business and Professions Code section 2761, subdivision (a), on grounds of unprofessional conduct, as defined in Business and Professions Code section 2762, subdivisions (a) and (b), for violating Health and Safety Code sections 11170, 11171 and 11173 , subdivisions (a) and/or (b) and/or (c) in that while on duty as a registered nurse at the University of California at Irvine Medical Center (UCI) in Irvine, CA, between approximately February 24, 2005 and July 2, 2005, Respondent obtained, possessed and self-administered controlled substances and dangerous drugs, by use of fraud, deceit, misrepresentation and/or subterfuge on multiple occasions, as follows:

A. Admissions of Respondent

On or about February 21, 2008, Respondent admitted to the Board's investigator that she had developed an addiction to Vicodin in 2005, and that while employed at UCI had diverted "mostly Vicodin" from patients numerous times. Respondent further indicated she may have diverted Percocet at least once.

B. Diversion of Vicodin from Property Envelope

(1) On or about July 2, 2005, while on duty at UCI, Respondent was asked to inventory personal property brought to the unit by an admitted patient. Said property included 6 Vicodin tablets, which were counted by another nurse, then given to Respondent to place in a sealed 'property envelope' pursuant to hospital policy. A supervisor later opened the sealed envelope - revealing that only 3 of the tablets had been placed inside - leaving 3 Vicodin tablets unaccounted for.

(2) Though Respondent denied taking the Vicodin, she was suspended, then terminated from UCI following this incident.

(3) On or about February 21, 2008, Respondent admitted to the Board's investigator that she did take Vicodin from the patient's property envelope – despite denial of responsibility at the time.

C. Diversion of Patient Medications

Investigation following the diversion incident on July 2, 2010 as described above, resulted in the discovery of multiple instances of apparent diversion by Respondent prior to that date, as follows:

1. **Patient # 1917046 - (June 29, 2005)**

(a) Physician's Order (6-29-05):

Vicodin 5mg/Acetaminophen 500 mg two tablets every four hours as needed for mild pain.

(b) The medical records, summarized below, disclose that on June 29, 2005, Respondent removed two tabs of Vicodin for Patient # 1917046 at 0600. There is no entry on the MAR or the nursing notes documenting administration to the patient, leaving two tabs of Vicodin unaccounted for.

Summary of Medication Record - Patient # 1917046

MED NAME	QUANTITY REMOVED	TIME REMOVED	MAR[1]	NURSE'S NOTES
Vicodin	2 tablets	6/29/05 - 0600	No entry	No entry

2. Patient # 1895283 - February 24, 2005

(a) Physician's Order (02-18-05):

Vicodin 5mg/Acetaminophen 500mg one tablet every eight hours as needed for pain.

(b) The medical records, summarized below, disclose that on February 24, 2005, Respondent removed two tablets of Vicodin for Patient # 1895283 at 0245. There is no entry on the MAR or the nursing notes documenting administration to the

[1] "MAR" is an abbreviation for Medication Administration Record.

patient, leaving two tabs of Vicodin 5mg unaccounted for.

Summary of Medication Record Patient # 1895283

MED NAME	QUANTITY REMOVED	TIME REMOVED	MAR	NURSE'S NOTES
Vicodin 5mg	2 tablets	2/24/05 - 0245	No entry	No entry

3. **Patient # 07138456 – June 14 and 15, 2005**

(a) Physician's Orders (06-13-05):

Norco 10mg one tablet every four hours as needed for pain.

(b) The medical records, summarized below, disclose that on June 14 and 15, 2005, Respondent removed a total of 4 tablets of Norco 10mg for Patient # 07138456. There is no entry on the nursing notes documenting administration of Norco to the patient, leaving four tablets of Norco 10mg thus unaccounted for.

Summary of Medication Record - Patient # 07138456

MED NAME	QUANTITY REMOVED	TIME REMOVED	MAR	NURSE'S NOTES
DATE: JUNE 14, 2005				
Norco 10mg	1 tablet	2030	Wastage "dropped in sink"	No entry
Norco 10mg	1 tablet	2045	No entry	No entry
DATE: JUNE 15, 2005				
Norco 10mg	2 tablets	0240	Wastage	No entry

4. **Patient # 1299469 - May 15, 2005**

(a) Physician's Orders (05-13-05):

Vicodin 5mg/Acetaminophen 500mg one tablet every six hours for severe pain.

(b) The medical records, summarized below, disclose that on May 15, 2005, Respondent removed 3 tablets of Vicodin for Patient # 1299469, documented wasting 2 tablets. There is no entry on the nursing notes documenting administration of Vicodin to the patient, leaving three tablets of Vicodin unaccounted for.

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Summary of Medication Record - Patient # 1299469

MED NAME	QUANTITY REMOVED	TIME REMOVED	MAR	NURSE'S NOTES
Vicodin 5mg	1 tablet	5/15/05 - 0900	Medication removed	No entry
Vicodin 5mg	2 tablets	5/15/05 - 1300	Wastage	No entry

SECOND CAUSE FOR DISCIPLINE
UC IRVINE MEDICAL CENTER

(Falsified Hospital Records)

22. Respondent is subject to disciplinary action under Business and Professions Code section 2761, subdivisions (a) and (d) on grounds of unprofessional conduct, as defined in Business and Professions Code section 2762, subdivision (e) for violating Health and Safety Code section sections 11350 subdivisions (a) and 11173, subdivisions (a) and (b), in that while employed as a registered nurse at University of California at Irvine Medical Center (UCI) in Irvine, CA, between approximately February 24, 2005 and July 2, 2005, Respondent falsified, made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital and patient records pertaining to controlled substances and dangerous drugs on at least seven occasions as more fully described in paragraph 21 "C" above.

THIRD CAUSE FOR DISCIPLINE
ST. MARY MEDICAL CENTER, LONG BEACH, CA

(Obtaining Controlled Substances by Fraud, Deceit, Misrepresentation or Subterfuge)

23. Respondent is subject to disciplinary action under Business and Professions Code section 2761, subdivision (a), on grounds of unprofessional conduct, as defined in Business and Professions Code section 2762, subdivisions (a) and (b), for violating Health and Safety Code sections 11170, 11171 and 11173 , subdivisions (a) and/or (b) and/or (c) in that while on duty as a registered nurse at the St. Mary Medical Center in the city of Long Beach, CA, on or about

February 29, 2004, Respondent obtained, possessed and self-administered controlled substances and dangerous drugs, by use of fraud, deceit, misrepresentation and subterfuge on multiple occasions, by reason of the following facts:

A. Falsification of Physician's Order and Diversion – Patient A

1. The following is a summary of information from medical records for Patient A during Respondent's shift on February 29, 2004:

Summary of Medication Record - Patient **A**

MED NAME	QUANTITY REMOVED	TIME REMOVED	MAR	NURSE'S NOTES
Vicodin	1 tablet	0800	No entry	No entry
Vicodin	1 tablet	1200	No entry	No entry
Lortab	1 tablet	1600	No entry	No entry

2. The medical record discloses that on or about February 29, 2004, Respondent removed two tablets of Vicodin and one tablet of Lortab for Patient A without a physician's order.

3. Respondent documented that she had received a telephonic physician's order for Vicodin and Lortab by Dr. P.: ("Vicodin 2 tablets prn pain every 4 hours)."

4. In fact, Dr. P. maintained that he made no call to Respondent, had never prescribed Vicodin for Patient A, and verified that no such call was made to the hospital at the time in question by researching and reviewing his telephone exchange records.

5. Neither the Medication Administration Record, nor the Nursing Notes show actual administration of the withdrawn drugs to Patient A.

6. Further, the discharge instructions form signed by both the patient and Respondent show that Patient A was discharged on February 29, 2004 at 1300 hours – *3 hours before* Respondent withdrew the Lortab.

7. Two tablets of Vicodin and 1 tablet of Lortab were thus unaccounted for.

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B. Falsification of Physician's Order and Diversion – Patient B

1. The following is a summary of information from medical records for Patient B during Respondent's shift on February 29, 2004:

Summary of Medication Record - Patient **B**

MED NAME	QUANTITY REMOVED	TIME REMOVED	MAR	NURSE'S NOTES
Vicodin	1 tablet	0800	No entry	No entry
Vicodin	1 tablet	1200	No entry	No entry
Vicodin	1 tablet	1(5)600 (illegible entry)	No entry	No entry

2. The medical record discloses that on or about February 29, 2004, between 0800 and 1500 or 1600 (entry is unintelligible) Respondent removed three tablets of Vicodin for Patient B without a physician's order.

3. Patient B had no physician's order for Vicodin prior to February 29, 2004.

4. After February 29, 2004, it was discovered that a page of orders handwritten by the patient's physician, Dr. L. – had been altered, and the words "Vicodin po 2 tablets prn pain 4q hours" inserted within the text. Dr. L. unequivocally denied making the notation (which was not his handwriting) – and maintained that he did not order Vicodin for the patient.

5. Neither the Medication Administration Record, nor the Nursing Notes show actual administration of the medication withdrawn to the patient.

6. Three tablets of Vicodin were thus unaccounted for.

FOURTH CAUSE FOR DISCIPLINE
ST. MARY MEDICAL CENTER, LONG BEACH, CA

(Falsified Hospital Records)

24. Respondent is subject to disciplinary action under Business and Professions Code section 2761, subdivisions (a) and (d) on grounds of unprofessional conduct, as defined in Business and Professions Code section 2762, subdivision (e) for violating Health and Safety Code

section sections 11350 subdivisions (a) and 11173, subdivisions (a) and (b), in that while on duty as a registered nurse at the St. Mary Medical Center in the city of Long Beach, CA, on or about February 29, 2004, Respondent falsified, made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital and patient records pertaining to controlled substances and dangerous drugs on at least 6 occasions as described in paragraph 23 above.

FIFTH CAUSE FOR DISCIPLINE
UC DAVIS MEDICAL CENTER

(Obtaining Controlled Substances by Fraud, Deceit, Misrepresentation or Subterfuge)

25. Respondent is subject to disciplinary action under Business and Professions Code section 2761, subdivision (a), on grounds of unprofessional conduct, as defined in Business and Professions Code section 2762, subdivisions (a) and (b), for violating Health and Safety Code sections 11170,11171and 11173 , subdivisions (a) and/or (b) and/or (c) in that while on duty as a registered nurse at the University of California at Davis Medical Center (UCD) in Sacramento, CA, between approximately January 25, 2003 and March 25, 2004, Respondent obtained, possessed and self-administered controlled substances and dangerous drugs, by use of fraud, deceit, misrepresentation and subterfuge on multiple occasions, as follows:

A. Admitted Diversion of Vicodin at UCD (January 2003)

(1) Between approximately January 25, 2003 and March 25, 2004, while Respondent was employed as a registered nurse at University of California at Davis Medical enter (UCD), her supervisors became suspicious that Respondent was diverting narcotics, and conducted an investigation, which included an audit of UCD Pyxis system records.

(2) On or about March 25, 2003, her supervisor confronted Respondent with the Pyxis audit and evidence of other irregularities regarding her administration of controlled substances. At that time and place, Respondent began crying and admitted to stealing Vicodin from the hospital, stating that she had been self-medicating for "shoulder pain" since January 2003. Respondent's employment at UCD was terminated as a result of these findings.

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(3) On or about April 30, 2003 Respondent admitted to a Board investigator that she started self-administering Vicodin for "shoulder pain" from a previous injury, and that she stolen 2-6 pills per shift for the last two months that she worked at UCD - but claimed not to have taken the pills from patients.

B. Irregularities in UCD Patient Records

A review of patient records and the Pyxis audit from UCD in March of 2003 showed irregularities in entries made by Respondent in for the following patients *during Respondent's shift* on the referenced date:

1. Patient A (E.F.) – February 24, 2003

(a) Physician's Orders:

Morphine 5mg IV x 2 and Vicodin 1-2 po q 4-6 pm

(b) The following is a summary of information from records for Patient A during Respondent's shift. In the Nursing Notes, Respondent claimed wastage had occurred, but did not comply with wastage procedures:

Summary of Medication Record - Patient A(E.F.)

MED NAME	QUANTITY REMOVED	TIME REMOVED	MAR	NURSE'S NOTES
Morphine	4mg/1ml syri.	0942	1000, MS 5mg	
Morphine	4mg/1ml syri.	0959	1000, MS 5mg	
Vicodin	2 tablets	0908	1000 2 tablets	No waste entered
Vicodin	2 tablets	1310	1430 2 tablets	On Pyxis
Vicodin	2 tablets	1318		On chart Respondent wrote "Wasted 2 Vicodin due to dropping them."

2. Patient B (T.A.) March 2, 2003

(a) Physician's Orders:

Morphine 2-5 mg IV q 10 prn severe pain and Vicodin 1-2 tabs po q 4-6 prn pain

(b) The following is a summary of information from records for Patient B during Respondent's shift, showing entries on Pyxis and medication administration records which were inconsistent with the Nursing Notes :

Summary of Medication Record - Patient B (T.A.)

MED NAME	QUANTITY REMOVED FROM PYXIS	TIME REMOVED	MAR	NURSE'S NOTES
Morphine	4mg/1 ml. syri.	1755	1500 (4 mg)	RN notes indicate 4mg given at 0800
Vicodin	2 tablets	1534	1400 (2 tabs)	No entry
Vicodin	2 tablets	1821	1800 (2 tabs)	No entry

3. Patient C (M.C.) March 14, 2003

(a) Physician's Orders:

Morphine - MS 1-2 mg, 1-2 hrs prn IV; Vicodin - 1-2 tabs q 4-6 hr, prn PO; Tylenol – none

(b) The following is a summary of information from records for Patient C during Respondent's shift. Patient C complained at approximately 0945 that she had not received pain medication, despite the MAR entry by Respondent stating she had administered Vicodin twice during the shift. Additionally, Respondent apparently administered Tylenol, which was not ordered for the patient.

Summary of Medication Record - Patient C (M.C.)

MED NAME	QUANTITY REMOVED FROM PYXIS	TIME REMOVED	MAR	NURSE'S NOTES
Morphine	None/no activity		1700 (4mg)	0800 Dc'd pca per MDorders
Vicodin	2 tablets	0929	1000 (2 tabs)	
Vicodin	2 tablets	1501	1500 (2 tabs)	
Tylenol	1 tablet	0949	None	None

4. **Patient D (E.T.)**

The following is a summary of information from records for Patient D during Respondent's shifts on several different dates. The summary discloses:

(a) A pattern of charting administration of medication inconsistent with the time the medication is removed from Pyxis; and

(b) Respondent's failure to make any Nursing Note entries.

(c) Additionally, Patient D stated on the morning of March 12, 2003 that he had not needed or received any pain medication on the previous day.

Summary of Medication Record - Patient D(E.T.)

MED NAME	PHYSICIAN'S ORDER	QTY. REMOVED FROM PYXIS	TIME REMOVED	MAR	NURSE'S NOTES
DATE: FEBRUARY 16, 2003					
Oxycodone 5mg	None	2 tablets	0825	No entry	No entry
Vicodin	1-2 tabs q 4 hr po prn	2 tablets	1832	2 tabs (1800)	
DATE: FEBRUARY 17, 2003					
Vicodin	1-2 tabs q. 4 hr po prn	2 tablets	1530	2 tabs (1500)	
Lorazepam	2-4 mg IV q 1hr prn	1mg	1837	1mg (1800)	
DATE: MARCH 1, 2003					
Vicodin	1-2 tabs q 4 hr	2 tablets	1101	2 tabs (1400)	
DATE: MARCH 10, 2003					
Vicodin	1-2 po q 4-6 hr prn	2 tablets	0839	2 tabs (0800)	
		2 tablets	1239	2 tabs (1500)	
DATE: MARCH 11, 2003					
Vicodin	1-2 po q 4-6 hr prn	2 tablets	0853	2 tabs (0800)	
		2 tablets	1531	2 tabs (1500)	

5. **Patient E (M.T.R.) February 24, 2003**

(a) Physician's Orders:

Vicodin – 1-2 po q 4-6 hr prn

(b) The following is a summary of information from records for Patient E during Respondent's shift on February 24, 2003. Medical records disclose that Respondent removed medication from the Pyxis System at 2000 for Patient E, 45 minutes after her (Respondent's) shift had ended. Additionally, Respondent charted administration of the medication at 1800 – two (2) hours before the medication was withdrawn.

Summary of Medication Record - Patient E (M.T.R.)

MED NAME	QUANTITY REMOVED FROM PYXIS	TIME REMOVED	MAR	NURSE'S NOTES
Vicodin	2 tablets	2000	2 tabs (1800)	Not her assigned patient, Respondent off duty @ 1915

SIXTH CAUSE FOR DISCIPLINE
UC DAVIS MEDICAL CENTER

(Falsified Hospital Records)

26. Respondent is subject to disciplinary action under Business and Professions Code section 2761, subdivisions (a) and (d) on grounds of unprofessional conduct, as defined in Business and Professions Code section 2762, subdivision (e) for violating Health and Safety Code section sections 11350 subdivisions (a) and 11173, subdivisions (a) and (b), in that while employed as a registered nurse at the University of California at Davis Medical Center (UCD) in Sacramento, CA, between approximately January 25, 2003 and March 25, 2004, Respondent falsified, made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital and patient records pertaining to controlled substances and dangerous drugs on at least five occasions as described in paragraph 25 above.

SEVENTH CAUSE FOR DISCIPLINE

(Use of Controlled Substance(s) to the Extent That Use Impairs Safety)

27. Respondent is subject to disciplinary action under Business and Professions Code section

2762, subdivision (b) on the grounds of unprofessional conduct, in that, on multiple occasions, Respondent has used controlled substances to an extent or in a manner dangerous to herself or any other person or the public, or to the extent that such use impairs her ability to conduct with safety the practice authorized by her license, by reason of the following facts:

A. Diversion at UC Davis Medical Center - 2003

By her own admission and as previously alleged at paragraph 24 (A), between approximately January 25, 2003 and March 25, 2003 while employed at University of California at Davis Medical Center, Respondent habitually used and developed an addiction to Vicodin, which she self-administered for "shoulder pain" from an injury, and diverted 2-6 pills per shift for the last two months that she worked at the hospital.

B. Respondent apparently sought treatment for drug addiction in 2003 and accomplished a period of sobriety.

C. Diversion at UC Irvine Medical Center - 2005

By her own admission and as previously alleged in paragraphs 20 (A) and 20 (B), Respondent habitually used and developed an addiction to Vicodin in 2005, and diverted "mostly Vicodin" from patients on numerous occasions while employed at UCI Medical Center between approximately February and July of 2005. Respondent further admitted that she may have diverted Percocet at least once during the same time period.

D. Respondent sought treatment for drug and alcohol addiction in September of 2005, enrolling in the Board's Diversion Program, and accomplished a period of sobriety.

E. Relapse While In Board's Diversion Program – October 2009

In October of 2009, Respondent relapsed – testing positive for Hydrocodone in random drug tests on October 22, 2009, October 23, 2009 and October 28, 2009. Respondent was mandated to enter a long term treatment facility, and did so in December, 2009. In March of 2010, she was approved by the Program for non-patient care nursing. However, in or about April, 2010 Respondent relocated to an Arizona address, effectively leaving the Program.

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F. Termination from Diversion Program for Non-Compliance – June 2010

On or about June 4, 2010, Respondent was terminated from the Board's Diversion Program for noncompliance with her Diversion Program contract. At time of termination, the Program notified the Board that Respondent had been deemed a risk to public safety.

OTHER MATTERS

28. In order to determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleged the following:

A. On or about October 8, 2002, Respondent submitted a urine sample for drug testing to comply with the employment requirements of her registry service, Medical Staffing Network. On or about October 9, 2002, the physician who reviewed laboratory results for the specimen certified findings that "specimen substituted: not consistent with normal human urine." Respondent claimed she was undergoing "colon and kidney cleansings with natural products" which accounted for the unusual result.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 530385, issued to Terri Louise Lawless, a.k.a. Terri Louise Nichols

2. Ordering Terri Louise Lawless to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 2/1/11

for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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